

EXHIBIT B

EXHIBIT 6

[Filed Under Seal]

Videotaped Deposition of

William Dalius

October 28, 2020

Grae

vs.

Corrections Corporation of America, et al.

<p>1 UNITED STATES DISTRICT COURT 2 MIDDLE DISTRICT OF TENNESSEE 3 4 NIKKI BOLLINGER GRAE, Individually and on Behalf of All Others 5 Similarly Situated, 6 Plaintiff, Civil Action No. 7 vs. 3:16-cv-02267 8 CORRECTIONS CORPORATION OF AMERICA, ET AL., 9 10 Defendants. 11 12 13 14 VIDEOTAPED DEPOSITION OF WILLIAM DALIUS 15 16 Conducted virtually via remote videoconference 17 October 28, 2020 18 19 20 21 22 23 Reported by: Misty Klapper, RMR, CRR 24 Job No.: 10073531 25</p>	<p>Page 1</p> <p>1 APPEARANCES: 2 (ALL APPEARANCES VIA ZOOM REMOTE VIDEOCONFERENCE) 3 ON BEHALF OF PLAINTIFF: 4 CHRISTOPHER HAMP LYONS, ESQUIRE ROBBINS GELLER RUDMAN & DOWD LLP 5 414 Union Street, Suite 900 Nashville, Tennessee 37219 6 (615) 244-2203 E-mail: clyons@rgrdlaw.com 7 8 AND 9 KENNETH J. BLACK, ESQUIRE ROBBINS GELLER RUDMAN & DOWD LLP 10 Post Montgomery Center One Montgomery Street, Suite 1800 San Francisco, California 94104 11 (415) 288-4545 E-mail: kennyb@rgrdlaw.com 12 13 14 15 ON BEHALF OF DEFENDANTS: 16 MILTON S. McGEE, III, ESQUIRE RILEY, WARNOCK & JACOBSON 17 1906 West End Avenue Nashville, Tennessee 37203 18 (615) 320-3700 E-mail: tmcgee@rwjplc.com 19 20 AND 21 MORGAN E. WHITWORTH, ESQUIRE LATHAM & WATKINS, LLP 22 505 Montgomery Street, Suite 2000 San Francisco, California 94111-2562 (415) 391-0600 23 E-mail: morgan.whitworth@lw.com 24 25 ALSO PRESENT: DeSHAWN WHITE, VIDEO OPERATOR</p> <p>Page 3</p>
<p>1 UNITED STATES DISTRICT COURT 2 MIDDLE DISTRICT OF TENNESSEE 3 4 NIKKI BOLLINGER GRAE, Individually and on Behalf of All Others 5 Similarly Situated, 6 Plaintiff, Civil Action No. 7 vs. 3:16-cv-02267 8 CORRECTIONS CORPORATION OF AMERICA, ET AL., 9 10 Defendants. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p> <p>1 C O N T E N T S 2 WITNESS: EXAMINATION BY: PAGE: 3 William Dalius Mr. Lyons 6 4 5 6 7 8 E X H I B I T S 9 DALIUS EXHIBITS 10 NO.: DESCRIPTION: PAGE: 11 Exhibit 589 Defendants' Disclosures Pursuant to 12 Federal Rule of Civil Procedure 13 26(a)(2)(C) dated 8-7-20 53 14 15 16 17 18 EXHIBITS REFERRED TO: PAGE 19 Dalius Exhibit 312 38 20 Dalius Exhibit 332 154 21 22 23 24 25</p> <p>Page 4</p>

<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2 VIDEO OPERATOR: Time on the record</p> <p>3 is 10:30 a.m. Central Time. Today's date</p> <p>4 is October 28, 2020. My name is DeShawn</p> <p>5 White of Aptus Court Reporting. The court</p> <p>6 reporter today is Misty Klapper of Aptus</p> <p>7 Court Reporting, located at 600 West</p> <p>8 Broadway, Suite 300, San Diego,</p> <p>9 California, 92101.</p> <p>10 This begins the video-recorded</p> <p>11 deposition of William Dalius, testifying in</p> <p>12 the matter of Nikki Bollinger Grae versus</p> <p>13 Corrections Corporation of America, et al.,</p> <p>14 pending in the United States District Court,</p> <p>15 Middle District of Tennessee, Case Number</p> <p>16 3:16-cv-02267, taken by Zoom video remote</p> <p>17 conferencing, physical recording in</p> <p>18 Culpeper, Virginia.</p> <p>19 The video and audio recordings will</p> <p>20 take place at all times during this</p> <p>21 deposition unless all counsel agree to go</p> <p>22 off of the record. The beginning and end of</p> <p>23 each video recording will be announced.</p> <p>24 Counsel appearances will be on a</p> <p>25 stenographic record.</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Yes, sir.</p> <p>2 Q. And you understand that you're under</p> <p>3 oath again here today, right?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And there's nothing different about</p> <p>6 that, even though we're doing this by video</p> <p>7 conference, right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you -- you had the opportunity</p> <p>10 to review the transcript of your -- of your prior</p> <p>11 deposition, right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Did you do that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And then you submitted what's called</p> <p>16 an errata list, reflecting any changes you wanted</p> <p>17 to be made to the transcript of your deposition;</p> <p>18 is that right?</p> <p>19 A. That's correct.</p> <p>20 Q. Who prepared that -- that list?</p> <p>21 A. Who prepared the list?</p> <p>22 Q. Um-hmm (affirmative).</p> <p>23 A. The -- the list that I did?</p> <p>24 Q. Yes.</p> <p>25 A. I would have prepared it.</p>
<p style="text-align: right;">Page 6</p> <p>1 The court reporter may now swear in</p> <p>2 or affirm the deponent.</p> <p>3 MS. REPORTER: One moment.</p> <p>4 Whereupon:</p> <p>5 WILLIAM DALIUS,</p> <p>6 was called for examination, and, after being duly</p> <p>7 sworn, was examined and testified as follows:</p> <p>8 MS. REPORTER: You may proceed.</p> <p>9 EXAMINATION BY COUNSEL FOR PLAINTIFF</p> <p>10 BY MR. LYONS:</p> <p>11 Q. Good morning, Mr. Dalius. How are</p> <p>12 you?</p> <p>13 A. Good morning. Doing well. How are</p> <p>14 you?</p> <p>15 Q. Good. Thanks.</p> <p>16 So you -- you recall, I assume, that</p> <p>17 you -- you had your deposition taken once in this</p> <p>18 case already, right?</p> <p>19 A. That's correct.</p> <p>20 Q. And you were under oath in that</p> <p>21 deposition, right?</p> <p>22 A. Correct.</p> <p>23 Q. The testimony you gave was -- was the</p> <p>24 whole truth and nothing but the truth; is that</p> <p>25 right?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And other than the changes that are</p> <p>2 reflected on the -- the list of errata that you</p> <p>3 submitted, does the transcript of your prior</p> <p>4 deposition accurately reflect your sworn</p> <p>5 testimony?</p> <p>6 A. Yes, sir, as far as I recall.</p> <p>7 Q. Let's see. Now, in -- I believe you</p> <p>8 testified before that in July 2015, which was</p> <p>9 before you retired from the BOP, you traveled to</p> <p>10 Nashville and had lunch with CCA executives,</p> <p>11 including Mr. Hininger and Mr. Lappin; is that</p> <p>12 right?</p> <p>13 A. That's correct.</p> <p>14 Q. And this was in connection with you</p> <p>15 looking for a new job; is that right?</p> <p>16 A. Potentially. I was weighing options.</p> <p>17 Q. Okay. What were the options you were</p> <p>18 weighing?</p> <p>19 A. Just any options for employment once</p> <p>20 I -- I was mandatory retirement in October of '15</p> <p>21 and I wasn't sure if I wanted to work or not, so</p> <p>22 I was just pursuing options.</p> <p>23 Q. Were there other potential employers</p> <p>24 that you were considering at that time?</p> <p>25 A. I -- I was pretty open.</p>

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1 with Mr. Hininger and Mr. Lappin in that meeting?

2 A. I -- I did make that -- make them

3 aware of that, because I could not work strictly

4 with BOP for two years.

5 Q. And what was the discussion about --

6 about that cooling-off period?

7 A. I don't recall much discussion. I

8 mean, I -- it's pretty well-known in government

9 that that's the case and not -- not only in

10 federal government, but a lot of states have

11 similar rules.

12 Q. Who paid for your flight out to

13 Nashville in July 2015?

14 A. I don't recall, but I assume

15 CoreCivic did.

16 Q. And who paid for your accommodation?

17 A. I -- I would assume that if CoreCivic

18 paid for the flight, they paid for the

19 accommodations. It was just -- it was -- it was

20 just one day. In fact, I -- if -- if I recall, I

21 think I just flew in and out same day.

22 Q. And I assume -- I assume CoreCivic

23 also paid for lunch then?

24 A. I -- I assume they did. Yeah, I

25 didn't pay for lunch.

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1 Q. And was it -- this was just a -- was

2 it a -- a lunch meeting? Where -- where did it

3 take place?

4 A. It was -- it was in a conference room

5 downstairs.

6 Q. At the -- at CoreCivic's --

7 A. At CoreCivic --

8 Q. -- offices?

9 A. -- yes, sir.

10 Q. And did you -- did you have any

11 meetings other than the lunch there or was that

12 it?

13 A. No, sir, that was it. I turned

14 around and flew home.

15 Q. Did you fly first class or economy?

16 A. I'm sure I flew Southwest in economy.

17 Q. And so then -- you already said that

18 you retired from the BOP in October 2015, right?

19 A. Correct.

20 Q. Before -- before that, before your

21 retirement, what, if any, personal role did you

22 have in monitoring CCA's performance at the Adams

23 County Correctional Center?

24 A. Didn't have a personal role. I had

25 oversight. I had -- contracting reported to me

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1 and we -- you know, the BOP in general had a -- a

2 correctional programs group that also monitored

3 operations at Adams and -- and all private

4 facilities. So I had staff that monitored. I

5 didn't personally do it.

6 Q. And as -- in -- as somebody who

7 wasn't personally doing the -- the monitoring,

8 did you get all the detailed reports of -- of the

9 deficiencies at Adams County Correctional Center?

10 MR. MCGEE: Object to the form of

11 the question.

12 Bill, you can answer. I'm sorry. Go

13 ahead.

14 THE WITNESS: Oh, okay.

15 MR. MCGEE: If you can.

16 THE WITNESS: Okay. Yep.

17 Can you please repeat that?

18 BY MR. LYONS:

19 Q. As somebody who wasn't doing --

20 personally doing the monitoring, did you get all

21 the detailed reports of deficiencies at the Adams

22 County Correctional Center?

23 A. No, sir, I would not have got all

24 details.

25 MR. MCGEE: Object to the form of

Page 16

1 the question.

2 Go ahead, Bill.

3 THE WITNESS: I -- I would not have

4 gotten all details of every contract. And

5 I -- I was responsible for a \$7 billion

6 budget, so I didn't get involved in every

7 detail of every transaction that occurred

8 within the agency.

9 BY MR. LYONS:

10 Q. How many facilities were you in

11 charge of?

12 A. We had 122 prisons. We had contracts

13 with -- oh, geez -- hundreds, I guess, of halfway

14 houses. And then I think there -- at that time

15 there were, I'm guessing, 12 to 15 private

16 prisons in addition to the 122 that the Bureau of

17 Prisons ran.

18 Q. Okay. So -- yeah. So the 122

19 prisons that you -- you mentioned would be the

20 BOP-operated prisons; is that right?

21 A. That's -- that's -- that's correct.

22 Q. I assume the answer -- so if I were

23 to ask the same question, you know, what --

24 what -- did you get the detailed reports of

25 deficiencies at CCA's other BOP prisons, your

Page 17

1 answer would be the same, you didn't get the --

2 MR. MCGEE: Object --

3 BY MR. LYONS:

4 Q. -- details of the deficiencies?

5 MR. MCGEE: Object to the form of

6 the question.

7 Bill, you -- you can answer after my

8 objection if -- if --

9 THE WITNESS: Okay.

10 MR. MCGEE: -- if you're able.

11 THE WITNESS: Okay.

12 BY MR. LYONS:

13 Q. Unless -- unless -- unless Mr. McGee

14 instructs you not to answer, you can go ahead

15 and --

16 A. Okay. Okay. Sorry. This is kind of

17 confusing in the Zoom --

18 Q. Yeah.

19 A. -- here, so --

20 MR. MCGEE: Sure.

21 THE WITNESS: I -- I -- I -- I --

22 you know, again, I would get -- I get many

23 reports. Now, whether I got detailed

24 reports of every facility, probably not.

25

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1 BY MR. LYONS:

2 Q. Were you personally aware of the

3 number of performance deficiencies found as to

4 CCA during your time at -- as CFO of the BOP?

5 A. Oh, no, I would not have been aware

6 of all deficiencies. I mean, we had deficiencies

7 at all 122 prisons, plus 12 -- like I said, 12 to

8 15 private prisons. So I -- I certainly did not

9 keep track of every deficiency of every facility.

10 Q. Were you personally aware during your

11 time as the CFO of the BOP of the number of times

12 that CCA's deficient health services contributed

13 to an inmate's death?

14 MR. MCGEE: Object to the form of

15 the question.

16 THE WITNESS: Can you please repeat

17 that?

18 BY MR. LYONS:

19 Q. During your time as the CFO of the

20 BOP, were you personally aware of the number of

21 times that CCA's deficient health services

22 contributed to an inmate's death?

23 MR. MCGEE: Object to the form of

24 the question.

25 THE WITNESS: I -- I would have

Page 19

1 known of -- I would have heard of deaths

2 from the entire agency, not necessarily

3 CCA, but I would have not known if they

4 were the result of any kind of deficiency

5 in healthcare.

6 I mean, there was a -- there's deaths

7 that occur every day in prisons across the

8 country and across the BOP and across

9 CoreCivic and GEO and MTC.

10 BY MR. LYONS:

11 Q. And then before you retired, did you

12 personally speak with anybody from the BOP about

13 their monitoring specifically of CCA's

14 performance for BOP?

15 A. Did I specifically talk about -- I

16 mean, I talked to a lot of folks and, you know,

17 we would -- I had -- I had obviously contracting

18 staff that reported to me that had responsibility

19 for private prisons. We -- we -- we -- you know,

20 we had overview of -- or oversight of all 122

21 facilities within the bureau as well, so I -- I

22 could have had general communications about any

23 of -- any of the facilities, whether it be -- you

24 know, we -- we looked at the private facilities

25 as an extension of BOP facilities. We had a need

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1 for the private prisons because of bed space. We

2 looked at them as a partner and an extension of

3 services run in BOP, so we look at them as the

4 same as BOP facilities from my view.

5 Q. Let's see. So would you have

6 specifically met with the people who were doing

7 the monitoring to go over, you know, the

8 individual deficiencies and repeat deficiencies

9 at, you know, for example, Adams County

10 Correctional Center?

11 A. Not typically. That -- my

12 contracting staff and working with the program

13 staff in the correctional programs division would

14 work -- work through most of those things.

15 Q. So before you retired from the BOP,

16 you had no personal knowledge or -- or personal

17 experience regarding CCA's performance for BOP,

18 right?

19 MR. MCGEE: Object to the form of

20 the question.

21 THE WITNESS: I assume that their

22 performance was comparable to BOP

23 performance in every regard, as well as

24 MTC's and GEO's, which is why we

25 maintained contracts with all of them.

<p>Page 21</p> <p>1 BY MR. LYONS:</p> <p>2 Q. You assumed that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. We touched briefly on</p> <p>5 your cooling-off period earlier, but -- so after</p> <p>6 you retired, that meant that there was two years</p> <p>7 where you were not able to speak directly to</p> <p>8 anybody at the BOP about BOP business; is that</p> <p>9 right?</p> <p>10 A. That's correct.</p> <p>11 Q. And so would that be from October</p> <p>12 2015 to October 2017 that you didn't speak to</p> <p>13 anybody at the BOP about BOP business?</p> <p>14 A. That's correct.</p> <p>15 Q. In terms of your consulting roles, I</p> <p>16 think you said that you first started discussing</p> <p>17 potentially consulting for CCA around December</p> <p>18 2015; is that right?</p> <p>19 A. That's my recollection. That -- that</p> <p>20 would have been in the ballpark. That's about</p> <p>21 the time I was starting to get bored and needed</p> <p>22 to look for something to do.</p> <p>23 Q. How did that conversation start?</p> <p>24 A. I think I contacted Harley Lappin at</p> <p>25 the time and just to see if they had any</p>	<p>Page 23</p> <p>1 December 2015 to when -- when you started doing</p> <p>2 consulting work?</p> <p>3 A. They -- they -- they worked -- once</p> <p>4 they agreed that I could be a consultant for</p> <p>5 them, they had their attorneys draw up a</p> <p>6 agreement, a contract, I guess it would be, for</p> <p>7 consulting services.</p> <p>8 Q. Did you discuss the possible</p> <p>9 consulting role with anybody other than</p> <p>10 Mr. Lappin?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Did you -- did you come back in and</p> <p>13 interview again or did you just communicate</p> <p>14 from --</p> <p>15 A. I -- I don't -- I don't recall going</p> <p>16 back in to interview. I think we just did it via</p> <p>17 telephone.</p> <p>18 MS. REPORTER: Let me remind</p> <p>19 everybody, please, to speak one at a time.</p> <p>20 THE WITNESS: I'm sorry.</p> <p>21 I -- I was going to add I also</p> <p>22 consulted for another company at the same</p> <p>23 time.</p> <p>24 BY MR. LYONS:</p> <p>25 Q. And that was the Keefe Group; is that</p>
<p>Page 22</p> <p>1 opportunities to explore.</p> <p>2 Q. So -- so you reached out to</p> <p>3 Mr. Lappin; is that right?</p> <p>4 A. Yes, sir. He was -- he was my prior</p> <p>5 boss obviously in the Bureau of Prisons. He was</p> <p>6 my director at one time, so I -- I did have a</p> <p>7 relationship with him.</p> <p>8 Q. And he was -- by that time he was</p> <p>9 chief corrections officer at CCA; is that right?</p> <p>10 A. That's -- that's the role he held at</p> <p>11 CCA, yes.</p> <p>12 Q. And what was the -- what was the</p> <p>13 process from -- from December 2015 when you</p> <p>14 contacted Mr. Lappin about potentially -- well,</p> <p>15 actually, strike that.</p> <p>16 When -- when you contacted</p> <p>17 Mr. Lappin, were you -- were you contacting him</p> <p>18 about a consulting role or about employment with</p> <p>19 CCA?</p> <p>20 A. I was looking for opportunities of</p> <p>21 either. And at the time they didn't have any</p> <p>22 vacancies, so they -- they were open to</p> <p>23 consulting.</p> <p>24 Q. And so can you just walk me through</p> <p>25 the process from when you contacted Mr. Lappin in</p>	<p>Page 24</p> <p>1 right?</p> <p>2 A. That's correct.</p> <p>3 Q. Were there any other companies you</p> <p>4 consulted for in that time frame?</p> <p>5 A. No, sir.</p> <p>6 Q. When did you start consulting for the</p> <p>7 Keefe Group?</p> <p>8 A. It was around the same time.</p> <p>9 Q. And so while you were in your</p> <p>10 consulting role at -- was it Perimeter</p> <p>11 Consulting; is that right?</p> <p>12 A. Yeah, that was -- that was my own</p> <p>13 company I created for tax purposes.</p> <p>14 Q. So about 75 percent of your work was</p> <p>15 for CCA; is that right?</p> <p>16 A. That sounds about right.</p> <p>17 Q. And then it was -- but what did you</p> <p>18 do in your consulting role for CCA?</p> <p>19 A. Whatever they asked me to do. If</p> <p>20 they wanted me to go to a meeting, help on</p> <p>21 papers, go to -- I mean, typically it was going</p> <p>22 to meetings and those type of things.</p> <p>23 Q. What meetings would you go to?</p> <p>24 A. I had met in D.C. with -- we've got</p> <p>25 folks that work directly with the Hill and, with</p>

<p style="text-align: right;">Page 33</p> <p>1 but it would have been shortly after I went to 2 work for them. 3 Q. Did you -- did you use that E-mail 4 address to do consulting work for your other 5 client? 6 A. No. 7 Q. So you had a separate E-mail address 8 you used for Keefe Group business? 9 A. As far as I recall, that's correct. 10 I had a Perimeter Management E -- E-mail account. 11 Q. But you -- you didn't use the 12 Perimeter Management E-mail account to consult 13 for CCA; is that right? 14 A. I -- I probably used both. Once they 15 set my account up, they asked that I utilize the 16 Core- -- or at the time CCA account, so I did. 17 Q. Now, what was your salary when you 18 started at CCA? 19 A. My -- when I was consulting or when I 20 went to work for them? 21 Q. When you went -- when you became 22 employed by CCA. 23 A. Oh, taxing my memory now. I don't 24 know the exact number, but it was probably 25 with -- my -- my -- my salary was probably</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. And so your compensation stayed 2 the -- the same for the whole time you had that 3 role; is that right? 4 A. That -- that's correct. 5 Q. And then once you became -- well, 6 what was your next role? 7 A. I was vice president of facility 8 operations, which is my current role. 9 Q. And so you got a raise with that 10 role; is that right? 11 A. Yes, sir. 12 Q. And how much did you make when you 13 first became vice president of facility 14 operations? 15 A. I think my base salary is around 16 220,000 and then again with potential for bonus 17 and stock options. 18 Q. And what is it today? 19 A. It's the same. 20 Q. Same -- 21 A. It may have -- it may have got 22 percentage increase with inflation. 23 Q. How much do you -- have you received 24 in bonuses since becoming vice president of 25 facility operations?</p>
<p style="text-align: right;">Page 34</p> <p>1 140,000, 150, and then I had potential to make 2 bonuses and stock awards that could be added onto 3 that. 4 Q. And did you, in fact, make or receive 5 a bonus? 6 A. I -- I -- I imagine I -- I think I 7 did when I was eligible. You've got to work a 8 year or whatever -- whatever the criteria was, 9 but I think the first year I was eligible I -- 10 I -- I did and I received stock as well. 11 Q. Did you receive stock when you joined 12 or after? 13 A. No, after I earned it. I had to earn 14 it as part of the cycle. 15 Q. And then you -- you received raises 16 since -- after starting at CCA, right? 17 A. I -- I changed jobs, yes, sir. 18 Q. So your compensation stayed the same 19 the whole time you were in a -- a purchasing 20 role; is that right? 21 A. Say that again, please. 22 Q. Any -- well, first -- your first role 23 was -- was it managing director of purchasing; is 24 that right? 25 A. That's correct.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I don't know the exact amount. I'd 2 say a couple hundred thousand. 3 Q. And how much have you received in -- 4 in stock awards? 5 A. Similar. 6 Q. And are you holding all of the stock 7 awards that you received or you've sold some? 8 A. I've not sold any. 9 Q. And so when you say similar, it's -- 10 you mean you have roughly couple hundred thousand 11 dollars' worth of CCA stock? 12 A. I'd say that's in the ballpark, but 13 depending on -- you know, stock has gone down a 14 bit and gone up a bit, so it varies day by day, 15 depending on the rate. 16 Q. Have you ever testified at trial on 17 behalf of CCA? 18 A. No, sir. 19 Q. Other than your deposition in this 20 case, how many times have you testified at 21 deposition? 22 A. Several over my career. 23 Q. At -- in your role at CCA. 24 A. Oh. That's -- that's the only one, 25 the last time I did it.</p>

<p>Page 45</p> <p>1 the needs were they wanted to meet with.</p> <p>2 Q. But these would be -- these would be</p> <p>3 meetings in like the DOJ's offices; is that</p> <p>4 right?</p> <p>5 A. Yes, if it was a DOJ meeting. Or --</p> <p>6 or we'd meet at OMB for OMB meetings or on the</p> <p>7 Hill for whatever congressional representatives</p> <p>8 wanted to meet with you.</p> <p>9 Q. Okay. That -- the part I think I'm</p> <p>10 struggling within the bullet -- in the bullet</p> <p>11 there is the concept of testifying before</p> <p>12 Department of Justice.</p> <p>13 So is that -- was testimony taken</p> <p>14 or -- or was it just a meeting?</p> <p>15 A. They were more meetings than -- there</p> <p>16 was not necessarily testimony taken, except for</p> <p>17 the formal hearing that -- that the director</p> <p>18 would typically be the primary individual doing</p> <p>19 the testimony.</p> <p>20 Q. And by -- by the formal hearing, you</p> <p>21 mean the congressional committee or subcommittee</p> <p>22 hearings; is that right?</p> <p>23 A. Subcommittee for appropriations.</p> <p>24 Q. So I -- I assume that's the same</p> <p>25 about -- like the Office of Management and</p>	<p>Page 47</p> <p>1 her.</p> <p>2 Q. If there was, like, written</p> <p>3 information provided or included in the record,</p> <p>4 maybe you might have written it, but you wouldn't</p> <p>5 necessarily be listed as the author; is that</p> <p>6 right?</p> <p>7 A. That's correct. It would have been</p> <p>8 the director. And I had many staff that assisted</p> <p>9 in that preparation. I didn't do it all myself.</p> <p>10 Q. I'm sure.</p> <p>11 A. A \$7 billion budget's a big budget.</p> <p>12 Q. Give that siren a second.</p> <p>13 So just -- just to make sure I have</p> <p>14 it right, there weren't any instances where you</p> <p>15 actually testified to -- to the congressional</p> <p>16 subcommittee on appropriations; is that right?</p> <p>17 MR. MCGEE: Object to the form of</p> <p>18 the question.</p> <p>19 THE WITNESS: I would have not been</p> <p>20 the primary speaker, whatever you want to</p> <p>21 call it, for the case, but I was there to</p> <p>22 provide assistance if needed.</p> <p>23 BY MR. LYONS:</p> <p>24 Q. Okay. So if -- if I was looking for</p> <p>25 a transcript of testimony that you gave before</p>
<p>Page 46</p> <p>1 Budget, where it says, Selected to testify before</p> <p>2 Office of Management and Budget, that would be</p> <p>3 meetings between you and the staff of the Office</p> <p>4 of Management and Budget, right?</p> <p>5 A. That's correct.</p> <p>6 Q. And then -- so you said for the</p> <p>7 formal hearing the director would typically be</p> <p>8 the primary individual doing the testimony, but</p> <p>9 did you actually provide testimony in this role?</p> <p>10 A. If -- if a question came up in a</p> <p>11 congressional, we would pass in a note to the</p> <p>12 director, it became part of the formal record.</p> <p>13 Q. But you would -- you wouldn't be,</p> <p>14 like, actually speaking --</p> <p>15 A. I -- I --</p> <p>16 Q. -- to testify to the --</p> <p>17 A. -- I was not the actual -- I was not</p> <p>18 the actual person assigned for the testimony.</p> <p>19 That would have been the director.</p> <p>20 Q. And so if we were to look at the</p> <p>21 records of these appropriations subcommittee</p> <p>22 hearings, would there be any way to tell what</p> <p>23 information you had provided?</p> <p>24 A. Probably not, because in most cases</p> <p>25 the director would relay what we provided him or</p>	<p>Page 48</p> <p>1 the -- the appropriations subcommittee, there</p> <p>2 wouldn't be one, right?</p> <p>3 A. It would show up under Harley Lappin.</p> <p>4 Q. Got you.</p> <p>5 A. Or Kathleen Hawk.</p> <p>6 Q. Do you recall my colleague</p> <p>7 Ms. Radcliffe asking you in your prior deposition</p> <p>8 whether you had been asked to provide an expert</p> <p>9 opinion in this case?</p> <p>10 A. Vaguely.</p> <p>11 Q. Do you recall that you said no?</p> <p>12 A. That would have been correct.</p> <p>13 Q. Since your prior deposition, have you</p> <p>14 been asked to provide an expert opinion in this</p> <p>15 case?</p> <p>16 A. If the court deems my testimony to be</p> <p>17 expert, I can -- certainly with my background and</p> <p>18 knowledge of 30-plus years correctional</p> <p>19 experience could be potentially used as a expert</p> <p>20 in this case, knowing prison operations,</p> <p>21 financial operations.</p> <p>22 Q. When did you first discuss the</p> <p>23 possibility of your testimony being potentially</p> <p>24 used as an expert in this case?</p> <p>25 MR. MCGEE: Bill, I just -- you can</p>

<p style="text-align: right;">Page 49</p> <p>1 answer the question. To the extent that</p> <p>2 the answer would reveal any communications</p> <p>3 between you and your counsel, I would</p> <p>4 advise you not to reveal the substance of</p> <p>5 those communications.</p> <p>6 So you -- you can answer --</p> <p>7 THE WITNESS: Yeah, so -- so --</p> <p>8 MR. MCGEE: -- the question from a</p> <p>9 timing perspective, but not from</p> <p>10 substance --</p> <p>11 THE WITNESS: It would have been --</p> <p>12 it would have been recently, sir.</p> <p>13 BY MR. LYONS:</p> <p>14 Q. Could you put a month on it?</p> <p>15 A. October.</p> <p>16 Q. What -- what expert opinion have you</p> <p>17 been asked to provide in this case?</p> <p>18 A. I've not been asked to provide an</p> <p>19 expert opinion, but I can provide an expert</p> <p>20 opinion on both CoreCivic and Bureau of Prisons</p> <p>21 facility operations, financial operations, things</p> <p>22 of that matter, considering I've got 30-plus</p> <p>23 years of correctional experience and obviously a</p> <p>24 lot of financial experience being the CFO of --</p> <p>25 of the Federal Bureau of Prisons managing a</p>	<p style="text-align: right;">Page 51</p> <p>1 BY MR. LYONS:</p> <p>2 Q. Have you seen this document before,</p> <p>3 Mr. Dalius?</p> <p>4 A. Can you just wait one second? It</p> <p>5 keeps pulling my prior --</p> <p>6 Q. Sure.</p> <p>7 If it helps, if you look in the chat</p> <p>8 box, I think it's the link that -- if you click</p> <p>9 on the link that ends in 10F.</p> <p>10 A. 10F.</p> <p>11 Q. I don't know if you see that.</p> <p>12 There's sort of two links there.</p> <p>13 A. Okay. I do.</p> <p>14 Q. It's the second one.</p> <p>15 MR. MCGEE: Bill, this document is</p> <p>16 also in the -- in the binder that my -- my</p> <p>17 office sent to you today.</p> <p>18 THE WITNESS: I -- I think -- it --</p> <p>19 it came up. Thank you.</p> <p>20 MR. MCGEE: Okay.</p> <p>21 THE WITNESS: I'm -- I'm ready,</p> <p>22 sir.</p> <p>23 BY MR. LYONS:</p> <p>24 Q. Okay. So I think my first question</p> <p>25 was have you seen this document before.</p>
<p style="text-align: right;">Page 50</p> <p>1 \$7 billion budget.</p> <p>2 MR. LYONS: DeShawn, why don't we</p> <p>3 go ahead and drop -- excuse me.</p> <p>4 Why don't we go ahead and drop the --</p> <p>5 T1 into the chat box, please.</p> <p>6 THE WITNESS: Can I take the other</p> <p>7 one down?</p> <p>8 MR. LYONS: Yes, that's fine.</p> <p>9 I think -- it looks like that's the</p> <p>10 same link to tab 4, DeShawn. Can you -- can</p> <p>11 you try again with tab 1?</p> <p>12 THE WITNESS: That's what I see as</p> <p>13 well.</p> <p>14 VIDEO OPERATOR: My apologies. It</p> <p>15 should be fixed now.</p> <p>16 MR. LYONS: No problem. That looks</p> <p>17 right to me.</p> <p>18 MR. MCGEE: Just so we're clear,</p> <p>19 Chris, tab -- we should be looking at</p> <p>20 Defendants' Disclosures Pursuant to the</p> <p>21 Federal Rule of Procedure 26(a)(2)(C); is</p> <p>22 that right?</p> <p>23 MR. LYONS: That's right.</p> <p>24 MR. MCGEE: Okay. Thanks.</p> <p>25</p>	<p style="text-align: right;">Page 52</p> <p>1 A. I have.</p> <p>2 Q. What is your understanding of what it</p> <p>3 is?</p> <p>4 A. It's a recap of -- a summary of what</p> <p>5 I'm prepared to testify about, you know, give an</p> <p>6 opinion that -- that I can be -- I -- I can</p> <p>7 testify as an expert in facility operations and</p> <p>8 security staffing, safety policies, financial</p> <p>9 issues regarding both BOP and CoreCivic.</p> <p>10 Q. Did you write any portion of this</p> <p>11 document?</p> <p>12 A. I did not. But it's a good summary</p> <p>13 of what -- based on my review, it's -- it's</p> <p>14 accurate and it clearly states the -- the areas</p> <p>15 that I believe I can render a -- an opinion on</p> <p>16 BOP/CoreCivic operations showing that CoreCivic</p> <p>17 is cheaper to run than the BOP at low security</p> <p>18 facilities.</p> <p>19 MS. REPORTER: Is this an exhibit?</p> <p>20 MR. LYONS: That is good. You</p> <p>21 know, it already was, but that's a good</p> <p>22 question.</p> <p>23 Let's -- let's go ahead and mark this</p> <p>24 as -- I think we're at -- because I don't</p> <p>25 think we have a marked copy of the one</p>

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1 that -- that is already an exhibit. So

2 let's mark this as the next exhibit, which I

3 think is going to be 589.

4 Thank you, Misty.

5 MS. REPORTER: My pleasure.

6 (Thereupon, Dalius Exhibit

7 Number 589 was marked for

8 identification.)

9 MR. MCGEE: That slipped past me

10 too, Chris.

11 BY MR. LYONS:

12 Q. Did you have any input on any portion

13 of the document that's now been marked as

14 Exhibit 589?

15 A. Other than previous conversations

16 with my lawyers and my last testimony, like I

17 said, I -- I -- in reviewing it, it -- it's --

18 looks factual and -- and accurate.

19 Q. So did you review it in draft form at

20 any time?

21 A. No, sir.

22 Q. But looking at it today, you think

23 it's factual and accurate, right?

24 A. Yes, sir.

25 Q. So there aren't any changes that you

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1 would make to it; is that right?

2 A. No, I -- it looks accurate to me.

3 MR. LYONS: I'm tripping my over --

4 over my own computer over here. Hold on

5 just a second. Sorry.

6 MR. MCGEE: Chris, we've been going

7 for about an hour, what -- so whenever's

8 convenient for you to take --

9 MR. LYONS: Yeah, sure, since

10 I'm -- I'm fumbling through my documents

11 here. So why don't we go ahead and take a

12 break now.

13 MR. MCGEE: Okay, great. Thanks.

14 VIDEO OPERATOR: Do you want to go

15 off the record?

16 MR. LYONS: Yes, please. Go off

17 the record.

18 VIDEO OPERATOR: Okay. The time

19 now is 11:31 a.m. and we are now off the

20 record.

21 (Thereupon, a brief recess was

22 taken.)

23 VIDEO OPERATOR: Okay. The time

24 11:45 a.m. and we are now on the record.

25 MR. LYONS: Thank you.

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1 BY MR. LYONS:

2 Q. Before moving on with that exhibit,

3 Mr. Dalius, I just wanted to make sure that I

4 understood a little bit of your testimony before,

5 right?

6 So am I right that you -- you

7 currently make about \$220,000 a year in salary,

8 you've made about \$200,000 total in bonuses since

9 being promoted to vice president of operations in

10 2017 and you've received about \$200,000 total in

11 stock awards since that promotion; is that right?

12 A. That's in the ballpark. It may not

13 be exact, but it's -- it's --

14 Q. Understood. Thank you.

15 Looking back at the document that we

16 have marked as Exhibit 589, on -- on the third

17 page under number 1, Subject Matter of

18 Testimony -- do you see that heading there?

19 A. Yes.

20 Q. -- it begins, Mr. Dalius is expected

21 to testify about the BOP's and CoreCivic's

22 operations in the areas of correctional facility

23 management, oversight, staffing, security and

24 related policies and procedures.

25 Do you see that?

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1 A. Yes, sir.

2 Q. Is that a complete list of areas that

3 you're planning to testify about with respect to

4 operations?

5 A. That's a pretty comprehensive list of

6 correctional management which I've been involved

7 in over my career. You know, having been a

8 warden, assistant director and now vice president

9 over many facilities, that covers a lot of the

10 areas that I would be responsible for and would

11 be able to provide an expert opinion on.

12 Q. So are you planning to testify about

13 the provision of medical services to inmates?

14 A. I am not a medical expert. I know

15 generally how medical works, but I always had

16 medical professionals that worked for me.

17 Q. Do you have any medical training?

18 A. No, sir.

19 Q. Are you a medical expert?

20 A. I'm not a medical expert, but I've

21 had the ability -- when I was the warden at

22 Butner medical center --

23 (Remote transmission interference)

24 MS. REPORTER: I'm sorry, sir, you

25 cut off. I'm sorry, sir, you cut off.

<p style="text-align: right;">Page 57</p> <p>1 THE WITNESS: Can you hear me now?</p> <p>2 MR. MCGEE: Yeah, that's -- that's</p> <p>3 better, Bill. I think it just glitched a</p> <p>4 little bit, so if you want to make the</p> <p>5 record clean, perhaps we could read back</p> <p>6 the question and you could start your</p> <p>7 answer over.</p> <p>8 MR. LYONS: Would you mind doing</p> <p>9 that, please, Misty?</p> <p>10 MS. REPORTER: One moment.</p> <p>11 (Thereupon, the record was read back</p> <p>12 as requested.)</p> <p>13 THE WITNESS: So -- so you want me</p> <p>14 to respond now?</p> <p>15 BY MR. LYONS:</p> <p>16 Q. Yes, please.</p> <p>17 A. Okay. I'm sorry.</p> <p>18 I am not medically trained. I've had</p> <p>19 the opportunity when I was a warden at the Butner</p> <p>20 medical complex to oversee medical operations at</p> <p>21 a -- at -- at the facility where I was a warden</p> <p>22 at. So I dealt with a lot of medical issues</p> <p>23 during that time, but I -- I'm not medically</p> <p>24 trained.</p> <p>25 Q. Did you have medical professionals</p>	<p style="text-align: right;">Page 59</p> <p>1 drastically.</p> <p>2 Q. And with respect to CCA's operations,</p> <p>3 you first took an operational role at CCA in --</p> <p>4 in -- was it July of 2017?</p> <p>5 A. It would have been August of 2000 --</p> <p>6 you mean when I was a vice president?</p> <p>7 Q. Yeah. When did you first take an</p> <p>8 operation -- well, when did you -- well, your</p> <p>9 first role at CCA was -- was purchasing, right?</p> <p>10 A. That's correct, which reported --</p> <p>11 in -- in the operations division.</p> <p>12 Q. But you didn't have oversight of any</p> <p>13 prisons in that role, right?</p> <p>14 A. Not specific oversight, though we</p> <p>15 dealt with the, you know, purchasing for all the</p> <p>16 facilities.</p> <p>17 Q. So when did you first have oversight</p> <p>18 over CCA prisons?</p> <p>19 A. That would have been in 2017 when I</p> <p>20 became vice president.</p> <p>21 Q. So for what period do you expect that</p> <p>22 you would testify about CoreCivic's operations?</p> <p>23 A. Well, I've known about CoreCivic's</p> <p>24 operations even when I worked at the BOP because</p> <p>25 the -- we -- as -- as I indicated earlier, we</p>
<p style="text-align: right;">Page 58</p> <p>1 who were responsible for the actual provision of</p> <p>2 health care?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Now, looking at that sentence we just</p> <p>5 read in Exhibit 589, it says, Mr. Dalius is</p> <p>6 expected to testify about the BOP's and</p> <p>7 CoreCivic's operations.</p> <p>8 For what period do you expect to</p> <p>9 testify about the BOP's operations?</p> <p>10 A. Well, as I stated earlier, sir, I</p> <p>11 worked for the BOP from 1985 to 2015. Throughout</p> <p>12 that time I had been a warden -- assistant</p> <p>13 warden, warden, assistant director, deputy</p> <p>14 assistant director. So I held many roles over my</p> <p>15 30-year career.</p> <p>16 So I would base my testimony on my</p> <p>17 30 years of experience in the BOP, holding and</p> <p>18 assuming the -- the -- the many different roles</p> <p>19 that I did.</p> <p>20 Q. So you would testify about the BOP's</p> <p>21 operations during the time you worked there, so</p> <p>22 1985 to 2015; is that right?</p> <p>23 A. That's correct. And I can generally</p> <p>24 speak about prison operations today because it</p> <p>25 hasn't -- prison operations have not changed</p>	<p style="text-align: right;">Page 60</p> <p>1 considered our private prisons as an extension of</p> <p>2 BOP prisons. So I was aware of CoreCivic</p> <p>3 operations at that time. And I became probably</p> <p>4 more intimately aware with daily day-to-day</p> <p>5 operations when I became a vice president at</p> <p>6 CoreCivic.</p> <p>7 Q. Because you were not intimately aware</p> <p>8 of day-to-day operations of CCA's prisons when</p> <p>9 you were the CFO of the BOP, right?</p> <p>10 MR. MCGEE: Object to the form of</p> <p>11 the question.</p> <p>12 THE WITNESS: No, sir. We had</p> <p>13 staff on-site at all the private</p> <p>14 facilities that monitored the day-to-day</p> <p>15 operations. I would be notified if there</p> <p>16 were big issues that occurred throughout</p> <p>17 the facilities, whether it be a BOP</p> <p>18 facility or a private facility.</p> <p>19 BY MR. LYONS:</p> <p>20 Q. What do you recall about the big</p> <p>21 issues that you were notified about that occurred</p> <p>22 at CCA's facilities while you were CFO of the</p> <p>23 BOP?</p> <p>24 A. I don't recall specifically issues,</p> <p>25 but typically you would be notified of inmate</p>

<p>1 deaths, if there were riots, if there were</p> <p>2 ongoing systemic issues that would have occurred</p> <p>3 at -- at a customer's facility, whether it be a</p> <p>4 BOP facility or a private facility.</p> <p>5 Q. So would you have been notified</p> <p>6 about, for example, significant findings that</p> <p>7 were issued at CCA's facilities?</p> <p>8 A. Potentially.</p> <p>9 Q. Would you have been notified of</p> <p>10 multiple repeat deficiencies that occurred at CCA</p> <p>11 facilities?</p> <p>12 MR. MCGEE: Object to the form of</p> <p>13 the question.</p> <p>14 THE WITNESS: It -- it would depend</p> <p>15 on the magnitude of the repeat deficiency</p> <p>16 just like it would in a BOP facility.</p> <p>17 BY MR. LYONS:</p> <p>18 Q. Would you be notified when a -- a</p> <p>19 cure notice was issued to a -- a CCA prison?</p> <p>20 MR. MCGEE: Object to the form of</p> <p>21 the question.</p> <p>22 THE WITNESS: It would depend on</p> <p>23 the magnitude of the cure notice. As I</p> <p>24 indicated, issues arose to my level,</p> <p>25 whether it be a BOP facility, a CoreCivic</p>	<p>1 policies and procedures?</p> <p>2 Do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What's the analysis by which you</p> <p>5 reached this conclusion?</p> <p>6 A. So CoreCivic runs safe, secure</p> <p>7 prisons, just like the BOP does. They -- they --</p> <p>8 their operations are very similar to BOP</p> <p>9 operations. They -- they -- the -- probably the</p> <p>10 major driving -- driver -- difference is the</p> <p>11 cost. It's cheaper for CoreCivic to do it than</p> <p>12 it is for the Bureau of Prisons to do it.</p> <p>13 But as far as actual prison</p> <p>14 operations, CoreCivic runs very good prisons, as</p> <p>15 does the BOP.</p> <p>16 Q. Is there some quantifiable objective</p> <p>17 metric by which you compared the -- the CoreCivic</p> <p>18 prisons and the BOP prisons?</p> <p>19 A. I wouldn't say there's quantifiable,</p> <p>20 other than I've got 30 years of experience of</p> <p>21 oversight of prisons, operating prisons. In the</p> <p>22 BOP I currently have oversight of 22 to 25</p> <p>23 prisons in my current role.</p> <p>24 So I -- I've -- I've been in</p> <p>25 virtually the majority of the BOP prisons. I've</p>
<p>1 facility or a GEO facility, depending on</p> <p>2 the magnitude of the issue.</p> <p>3 BY MR. LYONS:</p> <p>4 Q. Were you, in fact, notified of the</p> <p>5 cure notice that was issued to -- to CCA with</p> <p>6 respect to its Cibola prison?</p> <p>7 A. When did that occur, sir?</p> <p>8 Q. You're the witness, so -- it occurred</p> <p>9 during your time as CFO. Do -- but do you recall</p> <p>10 that happening while you were there?</p> <p>11 A. I -- I don't recur (sic) specifically</p> <p>12 that, no.</p> <p>13 Q. Let's see. How is this?</p> <p>14 Now, you see under the heading</p> <p>15 number 2, Summary of Facts and Opinions, where it</p> <p>16 says, Mr. Dalius may testify -- sorry.</p> <p>17 You see -- you see the heading, first</p> <p>18 of all?</p> <p>19 A. Yes, sir.</p> <p>20 Q. You see where it says, Mr. Dalius may</p> <p>21 testify that CoreCivic's operational performance</p> <p>22 was similar to and compared favorably with the</p> <p>23 BOP's operational performance in the areas of</p> <p>24 correctional facility management, oversight,</p> <p>25 staffing, security and relating -- related</p>	<p>1 seen how they operate. I was an AW at a low</p> <p>2 security prison that -- that managed criminal</p> <p>3 aliens, just like CoreCivic does. And I see very</p> <p>4 similar operations in both -- both CoreCivic and</p> <p>5 the Bureau of Prisons. They both run very good</p> <p>6 prisons.</p> <p>7 Q. But taken as a whole, looking at the</p> <p>8 BOP body of prisons and the CCA-operated BOP</p> <p>9 prisons, there are -- there are significant</p> <p>10 differences between those sets of prisons, right?</p> <p>11 A. There are differences. I would say</p> <p>12 the CoreCivic prisons are more up to date, more</p> <p>13 modern, more -- I'd -- I'd say clearly better</p> <p>14 designs than the older -- because in the Bureau</p> <p>15 of Prisons what they did with the low security</p> <p>16 facilities, they were typically old medium secure</p> <p>17 facilities that they managed down to low security</p> <p>18 when populations grew.</p> <p>19 So they're not very efficient.</p> <p>20 They're not very modern, as -- as it compared to</p> <p>21 the CoreCivic facilities, most of which are very</p> <p>22 modern and to the new standards of constructing</p> <p>23 prisons.</p> <p>24 Q. Most but not all of the CCA</p> <p>25 facilities are --</p>

<p style="text-align: right;">Page 77</p> <p>1 about how CCA's operational performance compared</p> <p>2 to GEO's operational performance, do you?</p> <p>3 A. Can you -- can you hang on just one</p> <p>4 minute? For some reason my screen left.</p> <p>5 Q. Yes.</p> <p>6 A. Oh, you're back.</p> <p>7 Q. Great.</p> <p>8 A. So I'm sorry --</p> <p>9 Q. Maybe that's a good thing. I don't</p> <p>10 know.</p> <p>11 A. Can you please repeat the question?</p> <p>12 Q. Yes.</p> <p>13 So the -- you don't expect to testify</p> <p>14 about how CCA's operational performance compared</p> <p>15 to GEO's operational performance, do you?</p> <p>16 A. I -- I don't have the in-depth daily</p> <p>17 knowledge of GEO's performance, but having -- in</p> <p>18 my prior role I've got a general understanding of</p> <p>19 how their operations are. You know, they --</p> <p>20 they -- them, CoreCivic and MTC, all ran prisons</p> <p>21 very similar and compatible to what the Bureau of</p> <p>22 Prisons runs. I've been in their facilities when</p> <p>23 I was in my prior roles.</p> <p>24 Q. So you do plan to testify about</p> <p>25 whether or not CCA's operational performance was</p>	<p style="text-align: right;">Page 79</p> <p>1 comparable between the two as -- if you're just</p> <p>2 comparing BOP.</p> <p>3 As I indicated before, CoreCivic does</p> <p>4 manage high security inmates as well, you know,</p> <p>5 medium, high, different levels. But for</p> <p>6 comparing BOP to -- to CoreCivic, the natural</p> <p>7 comparison would be to compare low security</p> <p>8 facilities.</p> <p>9 Q. Now, for purposes of your conclusion</p> <p>10 that CCA's operational performance was similar to</p> <p>11 and compared favorably with the BOP's operational</p> <p>12 performance, did you compare the frequency of</p> <p>13 prison riots between BOP-operated prisons and</p> <p>14 CCA-operated prisons?</p> <p>15 A. No, sir, I didn't compare frequency</p> <p>16 of either. There's -- I mean, riots happened in</p> <p>17 private prisons, BOP prisons, state prisons every</p> <p>18 day. So I -- I -- I would not have been looking</p> <p>19 at that specifically.</p> <p>20 Q. Did you compare the number of staff</p> <p>21 taken hostage in CCA-operated prisons to</p> <p>22 BOP-operated prisons?</p> <p>23 A. No, sir. We looked at -- as I</p> <p>24 indicated at the beginning, we looked at the</p> <p>25 private prisons as an extension of the BOP, so we</p>
<p style="text-align: right;">Page 78</p> <p>1 similar to and compared favorably with GEO's</p> <p>2 operational performance?</p> <p>3 A. I -- I -- I can testify that based on</p> <p>4 the data that I was provided and the visits that</p> <p>5 I had in facilities, GEO and -- and CoreCivic ran</p> <p>6 prisons as safely as the Bureau of Prisons runs</p> <p>7 its prisons and matched infrastructure,</p> <p>8 et cetera. And both did it cheaper than the</p> <p>9 Bureau of Prisons.</p> <p>10 Q. And would your answer be the same if</p> <p>11 I were to ask about a comparison between CCA</p> <p>12 operational performance and MTC operational</p> <p>13 performance?</p> <p>14 A. Yes, sir.</p> <p>15 Q. So for purposes of -- of your, I</p> <p>16 guess, comparison of CCA's operational</p> <p>17 performance to BOP's operational performance,</p> <p>18 which -- which specific BOP-operated prisons do</p> <p>19 you compare to CCA-operated prisons?</p> <p>20 A. Well, if we're trying to do a -- a</p> <p>21 true comparison, it would be low security.</p> <p>22 Q. All low security?</p> <p>23 A. Yeah. I mean, they're -- CoreCivic</p> <p>24 manages low security inmates, as does BOP. So I</p> <p>25 would -- that would be the -- the -- the</p>	<p style="text-align: right;">Page 80</p> <p>1 looked at the overall picture when we did</p> <p>2 evaluations of prisons.</p> <p>3 Q. Did you compare the numbers of</p> <p>4 correctional staff deaths between CCA-operated</p> <p>5 prisons and BOP-operated prisons?</p> <p>6 A. No, sir. As I indicated, we looked</p> <p>7 at it as a whole.</p> <p>8 Q. Did you compare the number of inmate</p> <p>9 deaths due to inadequate delivery of medical</p> <p>10 services between CCA-operated -- operated prisons</p> <p>11 and BOP-operated prisons?</p> <p>12 A. We looked at -- we -- we -- we -- we</p> <p>13 evaluated deaths as a system overall.</p> <p>14 Q. Did you compare the numbers of</p> <p>15 significant findings between BOP-operated prisons</p> <p>16 and CCA-operated prisons?</p> <p>17 A. I personally did not, but I will say</p> <p>18 that significant findings happen at every prison,</p> <p>19 so they -- all prisons have findings, whether</p> <p>20 they be private prisons or BOP prisons.</p> <p>21 Q. Did you compare the numbers of repeat</p> <p>22 deficiencies at CCA-operated prisons to</p> <p>23 BOP-operated prisons?</p> <p>24 A. No, sir. As I indicated before, we</p> <p>25 looked at -- when I was doing evaluations I</p>

<p>1 looked at all the facilities. BOP and CoreCivic 2 and -- every prison has repeat deficiencies. 3 It's unavoidable. It's the nature of the 4 business. 5 Q. Did you compare the numbers of double 6 repeat deficiencies between CCA-operated prisons 7 and BOP-operated prisons? 8 A. I did not. Again, as I indicated, we 9 looked at -- at universe overall. 10 Q. Did you compare the numbers of triple 11 repeat deficiencies between CCA-operated prisons 12 and BOP-operated prisons? 13 A. I -- I -- I would give you the same 14 answer. It -- it -- it -- whether you get to 15 that point and you have systemic issues that 16 occur, that would be brought to somebody's 17 attention, but it's not uncommon for facilities 18 to have repeat deficiencies. 19 Q. So you'd agree that a triple repeat 20 deficiency indicates that you have a systemic 21 problem that is occurring, right? 22 MR. MCGEE: Object to the form of 23 the question. 24 THE WITNESS: It depends on the 25 deficiency.</p>	<p>1 review areas and our oversight areas that 2 looked at those type of things and would 3 get with the regional director responsible 4 for those areas and put corrective action 5 plans -- corrective action plans together, 6 whether it be a BOP facility or a private 7 facility. 8 BY MR. LYONS: 9 Q. And for purposes of your analysis 10 comparing CCA's operational performance to the 11 BOP's operational performance, did you compare 12 the staffing levels at CCA-operated prisons to 13 BOP prisons? 14 A. We looked at staffing at all 15 facilities and -- and -- I don't know if we did a 16 comparison between private prisons and -- and 17 public prisons, but every prison has staffing 18 vacancies. So we -- we -- we looked at all those 19 areas. 20 Q. So you looked at all of them in your 21 role as -- you're saying as in your role at the 22 BOP as the CFO; is that right? 23 A. And I currently look at -- I look at 24 vacancies now as my role as a vice president. 25 Q. In your role as vice president you</p>
<p>1 I'm sorry. 2 BY MR. LYONS: 3 Q. And did you compare the numbers of 4 quadruple repeat deficiencies between the 5 CCA-operated BOP prisons and the BOP-operated 6 prisons? 7 A. Again, we reviewed all facilities' 8 operations. And if there are systemic issues, we 9 would look at the magnitude, what the 10 deficiencies are and whether or not we had to 11 provide some type of correction action -- 12 corrective action, whether it be a BOP facility 13 or a private facility. 14 Q. But in terms of your analysis 15 comparing CCA's operational performance to the 16 BOP's operational performance, you didn't do 17 any -- any rigorous analysis of the numbers of 18 all those types of repeat deficiencies and 19 significant findings between CCA-operated prisons 20 and BOP prisons, did you? 21 A. I personal -- 22 MR. MCGEE: Object to the form of 23 the question. 24 THE WITNESS: I personally did not 25 do that. We had staff in our program</p>	<p>1 don't look at -- you don't look at the staffing 2 vacancies at BOP prisons, though, do you? 3 BOP-operated prisons, sorry. 4 A. I -- I would not have access to that 5 anymore. 6 Q. For purposes of your comparison, did 7 you compare the medical staffing levels at 8 CCA-operated prisons to the medical staffing 9 levels at BOP-operated prisons? 10 A. As I indicated before, we looked at 11 staffing levels across the board and medical was 12 one particular area, as well as food service, 13 correctional services, other service -- other 14 areas within the facilities that we looked to 15 fill vacancies at both CoreCivic and BOP when I 16 was there. 17 Q. So for purposes of your comparison of 18 CCA's operational performance to the BOP's 19 operational performance, did you compare the 20 levels of turnover in staffing at CCA-operated 21 prisons to the levels at BOP-operated prisons? 22 A. I did not specifically do that 23 myself. Folks may have looked at turnover rates. 24 I mean, you look at vacancies in general. And -- 25 and if you look at corrections in general,</p>

<p>Page 85</p> <p>1 turnover is hard. People don't grow up to be 2 correctional officers, correctional workers. 3 Whether it be in correctional services, unit 4 management, the business office, medical, 5 wherever it may be, you know, every prison looks 6 to reduce turnover. The reality is, whether it 7 be BOP or CoreCivic, staff turnover.</p> <p>8 Q. For purposes of your comparison, did 9 you compare the experience levels of the staff 10 that were present at CCA-operated prisons to the 11 staff at BOP-operated prisons?</p> <p>12 A. I specifically, again, did not do 13 that myself, but I can say from my history of 14 working prisons, it's nice to have senior staff 15 in your facility. So it's -- obviously you -- 16 you like to have longevity with your staff where 17 you can and -- and whether that -- whether it be 18 CoreCivic or whether it be BOP.</p> <p>19 Q. For purposes of your comparison, did 20 you compare how many staff at the CCA-operated 21 prisons spoke the same language as the inmates 22 and did you compare that number to the -- to the 23 number at BOP-operated prisons?</p> <p>24 A. Again, I did not specifically do 25 that, but I would say in virtually every prison</p>	<p>Page 87</p> <p>1 population, even though they're Spanish-speaking, 2 also speak English. They -- they bring 3 interpreters with them. If there's information 4 that needs to be brought forward, they find a way 5 to do that. We've got translation lines that are 6 available for inmates to speak to staff through a 7 translator.</p> <p>8 So there's many ways that 9 investigators can get that information outside of 10 being able to speak the language.</p> <p>11 Q. So did you compare the levels of -- 12 maybe I'll just repeat my question to you.</p> <p>13 For purposes of your comparison of 14 CCA operational performance to BOP operational 15 performance, did you compare how many staff 16 specifically in intelligence functions spoke the 17 same language as the inmates in CCA-operated 18 prisons as compared to at BOP-operated prisons?</p> <p>19 A. I did not specifically do that 20 analysis, but I provided rationale as to why 21 that -- that's not as significant as it would 22 seem.</p> <p>23 Q. Now, all private prison providers 24 have an opportunity to earn performance awards, 25 right?</p>
<p>Page 86</p> <p>1 in the country there -- there are limited numbers 2 of staff that speak different languages or are 3 languages similar to the populations. That's 4 never an issue. I had the same problem when I 5 was at Fort Dix as an AW. Inmates find a way to 6 communicate with you.</p> <p>7 Many, many of these individuals that 8 are -- that are considered to speak only one 9 language, whether it be Spanish or whatever, also 10 speak English. So they find ways to communicate 11 with you and communicate with staff and have the 12 ability to get necessary information to the 13 leadership where -- where necessary.</p> <p>14 Q. And for purposes of your comparison 15 of CCA operational performance to BOP operational 16 performance, did you compare how many staff in -- 17 specifically in intelligence functions spoke the 18 same language as the inmates in CCA-operated 19 prisons as compared to at BOP-operated prisons?</p> <p>20 A. I would say it would be fairly 21 similar. The majority of the staff in this 22 country speak English and their intelligence 23 staff are similar to that.</p> <p>24 But, as I just indicated in my 25 previous response, there's ways that many of the</p>	<p>Page 88</p> <p>1 A. Depends on the contract, as far as 2 I'm -- based on my -- I -- based on my 3 experience, that has occurred over the years. I 4 don't think that's in every contract anymore.</p> <p>5 Q. To your knowledge during the -- the 6 2012 to 2016 time frame, did all private prison 7 providers that contracted with the BOP have an 8 opportunity to earn performance awards from the 9 BOP?</p> <p>10 A. I don't know --</p> <p>11 MR. MCGEE: Object to the form of 12 the question.</p> <p>13 THE WITNESS: I -- I don't know the 14 answer to that.</p> <p>15 BY MR. LYONS:</p> <p>16 Q. Have you done any analysis of what 17 percentage of the potential award fees CCA could 18 have earned from the BOP during the period 2012 19 to 2016 that they actually earned?</p> <p>20 A. I -- I did not do that analysis.</p> <p>21 Q. Have you -- well, not having done 22 that analysis, I assume you have -- have no way 23 to compare the level of performance awards that 24 CCA received to the level of performance awards 25 that any other private operator received, right?</p>

<p style="text-align: right;">Page 89</p> <p>1 MR. MCGEE: Object to the form.</p> <p>2 THE WITNESS: That's correct.</p> <p>3 That's correct. I don't know the answer</p> <p>4 to that.</p> <p>5 BY MR. LYONS:</p> <p>6 Q. What -- what is the objective measure</p> <p>7 by which you conducted your comparison of CCA's</p> <p>8 operational performance to the BOP's operational</p> <p>9 performance?</p> <p>10 MR. MCGEE: Object to the form of</p> <p>11 the question.</p> <p>12 THE WITNESS: Sir, as I indicated</p> <p>13 earlier, I've got 30 years of experience</p> <p>14 in the Bureau of Prisons. I was a warden.</p> <p>15 I was an assistant warden. I've got</p> <p>16 over -- that I -- I had general oversight</p> <p>17 over 120-some facilities. I've got</p> <p>18 oversight -- direct oversight over 20 to</p> <p>19 25 facilities now.</p> <p>20 So I've been able to gain a vast</p> <p>21 knowledge and experience in prison</p> <p>22 operations. It gives me the -- the ability</p> <p>23 to compare two facilities or multiple</p> <p>24 facilities to each other.</p> <p>25</p>	<p style="text-align: right;">Page 91</p> <p>1 Go ahead, Bill.</p> <p>2 THE WITNESS: So, yes, sir. My --</p> <p>3 it's not my general sense. It's my</p> <p>4 experience and knowledge of both CCA and</p> <p>5 CoreCivic working for both components that</p> <p>6 I'm able to do that.</p> <p>7 BY MR. LYONS:</p> <p>8 Q. There's no specific metric that</p> <p>9 you're using, right?</p> <p>10 A. No, just 34 years of experience.</p> <p>11 Q. So if you wanted to, like, put up a</p> <p>12 chart to show the jury how CCA prisons compare to</p> <p>13 BOP-operated prisons, there's no -- there's no</p> <p>14 way you could put your analysis in a chart, is</p> <p>15 there?</p> <p>16 MR. MCGEE: Object to the form of</p> <p>17 the question.</p> <p>18 THE WITNESS: Again, sir, it would</p> <p>19 depend on what analysis you're looking</p> <p>20 for. But if you're looking at overall</p> <p>21 operational standards, the standards are</p> <p>22 similar for both BOP and CoreCivic.</p> <p>23 BY MR. LYONS:</p> <p>24 Q. Did you perform any sort of</p> <p>25 statistical analysis comparing the CCA-operated</p>
<p style="text-align: right;">Page 90</p> <p>1 BY MR. LYONS:</p> <p>2 Q. So it's your -- your general sense,</p> <p>3 based on your experience at the BOP and at CCA;</p> <p>4 is that right?</p> <p>5 MS. REPORTER: I'm sorry. Could</p> <p>6 you repeat that?</p> <p>7 BY MR. LYONS:</p> <p>8 Q. So it's your general sense, based on</p> <p>9 your experience at the BOP and at CCA; is that</p> <p>10 right?</p> <p>11 MR. MCGEE: Object to the form of</p> <p>12 the question.</p> <p>13 THE WITNESS: Can you please repeat</p> <p>14 the question, Mr. Lyons?</p> <p>15 MR. LYONS: Misty, would you mind</p> <p>16 reading that back.</p> <p>17 MS. REPORTER: Sure. One moment.</p> <p>18 And again, it's very difficult as now</p> <p>19 three people are speaking at the same time.</p> <p>20 One moment.</p> <p>21 MR. LYONS: We apologize.</p> <p>22 (Thereupon, the record was read back</p> <p>23 as requested.)</p> <p>24 MR. MCGEE: Object to the form of</p> <p>25 the question.</p>	<p style="text-align: right;">Page 92</p> <p>1 prisons to the BOP-operated prisons?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you perform any written analysis</p> <p>4 of the operational performance of CCA prisons</p> <p>5 compared to BOP-operated prisons?</p> <p>6 A. Years ago, when I first -- when I was</p> <p>7 a consultant, I prepared a financial analysis.</p> <p>8 Q. And was that analysis of operational</p> <p>9 performance or of costs?</p> <p>10 A. Strictly costs.</p> <p>11 Q. Is there any sort of scoring system</p> <p>12 that you could use or you have used, rather, to</p> <p>13 compare the operational performance of CCA</p> <p>14 prisons to BOP prisons?</p> <p>15 MR. MCGEE: Object to the form of</p> <p>16 the question.</p> <p>17 THE WITNESS: There is no scoring</p> <p>18 system that I have.</p> <p>19 BY MR. LYONS:</p> <p>20 Q. Is there any system that you use to</p> <p>21 compare CC -- CCA-operated prisons to</p> <p>22 BOP-operated prisons that someone other than you</p> <p>23 objectively could -- could test or verify your</p> <p>24 conclusions?</p> <p>25 MR. MCGEE: Object to the form of</p>

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1 the question.

2 THE WITNESS: My cost analysis was

3 very clear, which showed CoreCivic

4 operations are much cheaper than BOP

5 operations.

6 BY MR. LYONS:

7 Q. I'm asking you about operational

8 performance.

9 Is there any -- is there any system

10 that somebody objective could use to compare

11 CCA's operational performance to -- you know, at

12 the CCA-operated BOP prisons to BOP's operational

13 performance at the BOP-operated prisons?

14 MR. MCGEE: Object to the form of

15 the question.

16 THE WITNESS: There's -- there --

17 there is nothing that I personally

18 developed.

19 BY MR. LYONS:

20 Q. And nothing that you used either,

21 right?

22 A. In my analysis of -- of -- I mean,

23 I -- I've used my -- as I indicated before, I can

24 walk in a prison and fairly quickly walk the

25 compound, get a feel for the compound, how safe

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1 the compound is based on inmates communicating

2 with you and staff communicating with you, is the

3 place clean, does the food taste good.

4 I mean, those are the types of things

5 that I base my analysis on.

6 Q. So if somebody else wanted to come in

7 and attempt to replicate your analysis, they

8 would have to walk in to the same places and just

9 see if they had the same feeling?

10 MR. MCGEE: Object to the form of

11 the question.

12 THE WITNESS: The answer to that

13 would be if you had somebody that's got

14 35 years in corrections, they could do the

15 similar thing that I do. The -- the

16 difference being is the majority of the

17 folks that would -- could do that,

18 they're -- they're rare because I've got

19 the -- the -- the luxury of having a

20 financial background, as well as an

21 operations background, to be able to

22 evaluate facilities.

23 BY MR. LYONS:

24 Q. To your knowledge, is there any

25 academic literature that supports assessing the

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1 relative performance of a private prison operator

2 by trying to compare to -- to dissimilar BOP

3 facilities as opposed to comparing performance to

4 similarly -- similarly situated private

5 operators?

6 MR. MCGEE: Object to the form of

7 the question.

8 THE WITNESS: There was a --

9 when -- when the BOP initially got into

10 privatization, there was some study done

11 back either the late '80s or early '90s, I

12 don't remember who it was, and it

13 basically, I think, was inconclusive.

14 Basically saying that private prisons ran

15 as comparable to BOP prisons.

16 BY MR. LYONS:

17 Q. Was it inconclusive or it -- or it

18 reached the conclusion that you just described?

19 A. When I say inconclusive, I think

20 there were -- I -- again, I -- that was 30 years

21 ago, so I -- I'm -- I'm taxing my memory to go

22 back and figure out what the -- but that was a

23 study that was done years and years ago.

24 Q. Who authored that study?

25 A. I don't know the answer to that.

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1 Q. Is there any academic literature that

2 supports assessing the relative performance of a

3 for-profit prison operator by trying to

4 compare -- well, by ignoring all of the

5 unfavorable performance criteria we just

6 discussed, such as significant findings, riots,

7 repeat deficiencies?

8 Is there any academic literature that

9 supports comparing private to government prisons

10 without looking at all of those factors?

11 MR. MCGEE: Object to the form of

12 the question.

13 THE WITNESS: Not that I'm aware

14 of.

15 BY MR. LYONS:

16 Q. To your knowledge, has anybody else

17 ever performed an analysis like -- like you have

18 apparently performed to compare operational

19 performance of private prisons and government

20 prisons?

21 MR. MCGEE: Object to the form of

22 the question.

23 THE WITNESS: I -- I don't know if

24 there's anybody else that's done that.

25

<p>1 BY MR. LYONS: Page 97</p> <p>2 Q. Other than for -- for this case, do</p> <p>3 you have any experience assessing the relative</p> <p>4 performance of a for-profit prison operator by</p> <p>5 trying to compare to BOP-operated prisons?</p> <p>6 MR. MCGEE: Object to the form of</p> <p>7 the question.</p> <p>8 THE WITNESS: Just the cost</p> <p>9 analysis that we had done and we did every</p> <p>10 year.</p> <p>11 BY MR. LYONS:</p> <p>12 Q. So not -- you don't have any</p> <p>13 experience, other than for this case, comparing</p> <p>14 the operational performance of CCA-operated</p> <p>15 prisons or any private prison company-operated</p> <p>16 prisons to BOP-operated prisons, right?</p> <p>17 MR. MCGEE: Object to the form of</p> <p>18 the question.</p> <p>19 THE WITNESS: Other than ongoing</p> <p>20 operational performance in the Bureau of</p> <p>21 Prisons and program review teams and teams</p> <p>22 that went out and assessed, but no -- no</p> <p>23 third party that I'm aware of.</p> <p>24 BY MR. LYONS:</p> <p>25 Q. And no -- no actual comparison by you</p>	<p>1 is there any publication that's ever published an Page 99</p> <p>2 article applying the methodology you used to</p> <p>3 compare CCA's operational performance to BOP's</p> <p>4 operational performance?</p> <p>5 MR. MCGEE: Object to the form of</p> <p>6 the question.</p> <p>7 THE WITNESS: Not that I'm aware</p> <p>8 of.</p> <p>9 BY MR. LYONS:</p> <p>10 Q. To your knowledge, has any court ever</p> <p>11 ruled that the methodology you used to compare</p> <p>12 CCA's operational performance to the BOP's</p> <p>13 operational performance is admissible in</p> <p>14 evidence?</p> <p>15 MR. MCGEE: Object to the form of</p> <p>16 the question.</p> <p>17 THE WITNESS: Not that I'm aware</p> <p>18 of.</p> <p>19 BY MR. LYONS:</p> <p>20 Q. So the methodology you used is --</p> <p>21 hasn't been tested by anybody else, has it?</p> <p>22 MR. MCGEE: Object to the form of</p> <p>23 the question.</p> <p>24 THE WITNESS: I -- I don't know.</p> <p>25 This is the first time I've testified.</p>
<p>1 either, right? Page 98</p> <p>2 A. I have not done a comparison, other</p> <p>3 than my being in and out of prisons and</p> <p>4 understanding how prisons operate.</p> <p>5 Q. To your knowledge, are there any</p> <p>6 classes that teach what you've done to compare</p> <p>7 the operational performance of CCA to the</p> <p>8 operational performance of BOP-operated prisons?</p> <p>9 Are there any classes that teach that method as a</p> <p>10 sound methodology?</p> <p>11 MR. MCGEE: Object to the form of</p> <p>12 the question.</p> <p>13 THE WITNESS: Not that I'm aware</p> <p>14 of.</p> <p>15 BY MR. LYONS:</p> <p>16 Q. To your knowledge, are there any</p> <p>17 textbooks or treatises that embrace your methods</p> <p>18 as reliable?</p> <p>19 MR. MCGEE: Object to the form of</p> <p>20 the question.</p> <p>21 THE WITNESS: Not that I'm aware</p> <p>22 of, but there are a lot of criminal</p> <p>23 justice classes out there I may use.</p> <p>24 BY MR. LYONS:</p> <p>25 Q. To your knowledge, are there any --</p>	<p>1 BY MR. LYONS: Page 100</p> <p>2 Q. Did you consider any documents in</p> <p>3 forming your opinions with respect to the</p> <p>4 comparison of CCA's operational performance to</p> <p>5 the BOP's operational performance?</p> <p>6 A. Not that I'm aware of. I -- I mean,</p> <p>7 I -- I -- again, I -- I -- I -- I base my</p> <p>8 analysis of the operations on actual hands-on</p> <p>9 being in the facilities, seeing what they're</p> <p>10 doing, both in my previous 30 years in the Bureau</p> <p>11 of Prisons and my four years at CoreCivic. That</p> <p>12 give -- gives me the ability to assess how</p> <p>13 facilities are operating.</p> <p>14 Q. But so there's -- there's no document</p> <p>15 that you could -- you could hand to me and say</p> <p>16 look here, here's a document that shows that</p> <p>17 CCA's operational performance was similar to and</p> <p>18 compared favorably with the BOP's operational</p> <p>19 performance, right?</p> <p>20 A. I -- I don't have a document. The</p> <p>21 BOP may have documents from their program reviews</p> <p>22 where -- where they assess. If you look at all</p> <p>23 the BOP program reviews and the -- the reviews</p> <p>24 that are done of the privatization companies,</p> <p>25 they may have documents that would -- that would</p>

<p>Page 101</p> <p>1 give that comparison for you in addition to</p> <p>2 having expertise review facilities.</p> <p>3 Q. So they may have those documents, but</p> <p>4 you don't -- if they exist you don't have them,</p> <p>5 right?</p> <p>6 A. I -- I would have any document --</p> <p>7 or -- or I -- I would have had access to a</p> <p>8 document. I don't have any documents personally,</p> <p>9 but at -- at CoreCivic I would have had access to</p> <p>10 whatever reviews were done.</p> <p>11 Q. But you didn't actually, like, look</p> <p>12 at those -- the types of documents that you're</p> <p>13 describing to -- to perform some comparison of</p> <p>14 CCA's operational performance to the BOP-operated</p> <p>15 prisons' operational performance, did you?</p> <p>16 A. Not specifically.</p> <p>17 Q. Is there anything you're relying on</p> <p>18 for that, other than your memory of the</p> <p>19 performance of BOP prisons?</p> <p>20 MR. MCGEE: Object to the form of</p> <p>21 the question.</p> <p>22 THE WITNESS: No, sir. But</p> <p>23 30 years of working in the BOP, I've --</p> <p>24 I've had a lot of --</p> <p>25 (Remote transmission interference)</p>	<p>Page 103</p> <p>1 A. Don't believe I do.</p> <p>2 Q. Are you aware that CCA or now</p> <p>3 CoreCivic is one of the defendants in the case?</p> <p>4 A. I'm assuming that's why I'm</p> <p>5 testifying.</p> <p>6 Q. Are you aware that Damon Hininger is</p> <p>7 one of the defendants in this case?</p> <p>8 A. Just generally.</p> <p>9 Q. Are you aware that Mr. Lappin, Harley</p> <p>10 Lappin, is a defendant in the case?</p> <p>11 A. Generally, as with Mr. Hininger.</p> <p>12 Q. Who do you report to at CCA?</p> <p>13 A. Right now?</p> <p>14 Q. Yes.</p> <p>15 A. Patrick -- Patrick Swindle.</p> <p>16 Q. And who does he report to?</p> <p>17 A. Damon Hininger.</p> <p>18 Q. Did you speak to any of the</p> <p>19 defendants' other purported experts about this</p> <p>20 case?</p> <p>21 A. No, sir.</p> <p>22 Q. So did you speak to Scott Dodrill</p> <p>23 about this case?</p> <p>24 A. No, sir.</p> <p>25 Q. Did you speak to Justin Marlowe?</p>
<p>Page 102</p> <p>1 MS. REPORTER: A lot of what?</p> <p>2 THE WITNESS: A lot of oversight of</p> <p>3 the facilities, so I -- I -- I saw how BOP</p> <p>4 facilities operated.</p> <p>5 BY MR. LYONS:</p> <p>6 Q. Did you interview anybody from the</p> <p>7 BOP about how CCA's operational performance</p> <p>8 compares to BOP-operated prisons' operational</p> <p>9 performance?</p> <p>10 A. No, sir.</p> <p>11 Q. Did CCA's lawyers ask you to</p> <p>12 interview anybody about how CCA's performance</p> <p>13 compared to BOP-operated prisons' operational</p> <p>14 performance?</p> <p>15 A. No, sir.</p> <p>16 Q. Did you talk to any of the defendants</p> <p>17 in this case about CCA's operational performance</p> <p>18 for BOP during the class period?</p> <p>19 A. Did I talk to who?</p> <p>20 MR. MCGEE: Object to the form --</p> <p>21 BY MR. LYONS:</p> <p>22 Q. Any of the defendants in this case.</p> <p>23 A. Oh, no, sir.</p> <p>24 Q. Speaking of which, do you know who</p> <p>25 the defendants are in this case?</p>	<p>Page 104</p> <p>1 A. No, sir.</p> <p>2 Q. Did you speak to Lucy Allen?</p> <p>3 A. No, sir.</p> <p>4 Q. Did you speak to Don Murray about</p> <p>5 this case?</p> <p>6 A. No, sir.</p> <p>7 Q. Did you speak to Harley Lappin about</p> <p>8 this case?</p> <p>9 A. No, sir.</p> <p>10 Q. And did you speak to Kim White about</p> <p>11 this case?</p> <p>12 A. No, sir.</p> <p>13 MR. MCGEE: Chris, we've been going</p> <p>14 about an hour, so whenever you reach a</p> <p>15 good break -- a -- a good breaking point.</p> <p>16 MR. LYONS: Yeah. You know,</p> <p>17 this -- this is a -- a decent breaking</p> <p>18 point, so why don't we go ahead --</p> <p>19 VIDEO OPERATOR: Do you want to go</p> <p>20 off the record?</p> <p>21 MR. LYONS: -- and go off the</p> <p>22 record, yeah.</p> <p>23 VIDEO OPERATOR: Okay. The time is</p> <p>24 12:44 p.m. and we are now off the record.</p> <p>25 MR. LYONS: Thanks.</p>

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1 to be the same as costs?

2 A. Similar.

3 Q. So, like, in other words, I could buy

4 a beat-up used Suzuki for \$9,000 or a brand-new

5 Ferrari for \$10,000. Is the Suzuki the more

6 cost-effective purchase?

7 A. I guess it depends on your style.

8 Q. Is there anything else you would use

9 to measure cost effectiveness other than just

10 price?

11 A. Well, the -- well, I mean, you --

12 you've got to follow the contract too. And, you

13 know, as long as your quality -- you're running a

14 quality operation, which CoreCivic runs quality

15 operations, and your cost -- when you say cost

16 effective, I -- I consider cost effectiveness as

17 being we're -- we're doing the same or -- or

18 equal operations as the BOP at a lower rate.

19 That's cost effective for the government.

20 Q. And how will you measure whether or

21 not CCA is doing the same or equal operations as

22 the BOP?

23 A. As I mentioned previously, I've been

24 in virtually every BOP prison. I've been in many

25 private prisons. I've seen the operations of

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1 both. I've got 30 years' experience to evaluate

2 and -- and -- and compare the two. And CoreCivic

3 operations run as effectively and efficiently as

4 BOP's.

5 Q. But there's no metric you can point

6 me to for that, right?

7 MR. MCGEE: Object to the form --

8 THE WITNESS: Metrics would be --

9 I'm sorry.

10 The -- the metrics would be, you

11 know, the -- the thousands of reports I've

12 reviewed over the years, talking to hundreds

13 of thousands -- or -- or hundreds of wardens

14 and thousands of staff probably over the

15 years, reviewing documentation over my

16 career and -- and being inside facilities.

17 BY MR. LYONS:

18 Q. On this point of cost effectiveness,

19 are you aware that in December 2014, the BOP

20 opted not to award a contract to CCA and instead

21 awarded it to GEO, even though GEO was offering a

22 price that was [REDACTED] percent higher than CCA's

23 price?

24 A. Don't recall that, no.

25 Q. Are you aware that -- that in that

Page 123

1 instance, the -- the inmates were actually going

2 to have to be transferred from CCA's facility to

3 the GE -- the GEO facility?

4 A. I don't recall that, sir.

5 Q. You were the -- the CFO of BOP in

6 December 2014, right?

7 A. I was.

8 Q. Were you involved in the decisions

9 with respect to CAR XV?

10 A. Typically, no, I would not have been

11 involved in that decision. As I indicated

12 before, the procurement executive and his team

13 had warrants and decisions. I didn't have a

14 warrant. They awarded the contracts.

15 Q. So did you discuss the source

16 selection decision with those procurement

17 executives for CAR XV?

18 A. I'm pretty confident they would have

19 notified me of -- of that. But you've got to

20 remember I had a \$7 billion budget and 150

21 facilities to worry about. I didn't get into

22 every detail of every contract action that

23 occurred.

24 Q. So you don't recall discussing the

25 specific thought process that went into the

Page 124

1 decision to award that contract to GEO instead of

2 CCA; is that right?

3 A. That's correct.

4 Q. Are you aware that in awarding this

5 contract to GEO instead of CCA, the BOP concluded

6 that, quote, [REDACTED]

7 [REDACTED]

8 [REDACTED] end

9 [REDACTED]

10 quote?

11 MR. MCGEE: Chris, what are you

12 reading from?

13 MR. LYONS: It's -- I haven't

14 introduced it. I'm just --

15 MR. MCGEE: In -- in --

16 MR. LYONS: I'm asking whether he's

17 aware of the BOP reaching that conclusion.

18 MR. MCGEE: For what contract?

19 MR. LYONS: For CAR XV.

20 THE WITNESS: Well, it could have

21 been 10 -- it could have been 10 contracts

22 for CAR XV.

23 BY MR. LYONS:

24 Q. Okay. With respect to the --

25 requirement A under CAR XV of the decision

Page 161

1 A. It was when I was consulting for CCA
2 at the time.

3 Q. Would that have just been one
4 instance in connection with your D.C. meetings
5 with Mr. Wiley and company?

6 A. That -- that would have -- I don't
7 know if I did it for that meeting or I did it for
8 somebody else, but it was just one instance.

9 Q. And then since you started working
10 for CCA, have you done written analyses comparing
11 the cost of CCA-operated prisons to BOP-operated
12 prisons?

13 A. No, sir. The theory doesn't change.

14 Q. But so in connection with -- with
15 this case, for example, you haven't done any
16 written analyses comparing the cost of
17 CCA-operated prisons to BOP-operated prisons,
18 right?

19 A. No, sir.

20 Q. Just to make sure we have our -- our
21 yeses and nos right, that means no, you haven't
22 done those analyses, right?

23 A. I -- I have not done anything since
24 the initial one.

25 Q. Now, when you did the initial written

Page 162

1 analysis comparing CCA-operated prisons' costs to
2 BOP-operated prisons' costs, what data did you
3 use?

4 A. For -- for BOP or CoreCivic? It was
5 mostly -- mostly -- it -- well, it was all public
6 data. At -- at the time, you know, BOP puts in
7 their annual budget, at least they used to at the
8 time, their annual per capita by classification,
9 minimum, low, medium, high, privatization
10 overall. So that data was publicly available.

11 At the time they -- they produced a
12 report that was called the Monday Morning
13 Highlights that showed --

14 MS. REPORTER: I'm sorry, sir?

15 THE WITNESS: It was called the
16 Monday Morning -- Monday Morning
17 Highlights that showed the populations, so
18 I was able to -- to take that report and
19 extract the low security facilities to
20 come up with the mandates.

21 BY MR. LYONS:

22 Q. So they -- they published a report
23 that was called the Monday Morning Highlights; is
24 that right?

25 A. Yes -- yes, sir. They did that every

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1 week. They don't do it anymore, but they used
2 to.

3 Q. And where was that published?

4 A. It was on the BOP website.

5 Q. Was there any other data that you
6 used for the BOP side of the equation?

7 A. No, sir.

8 Q. Then what about the CCA side of the
9 equation?

10 A. The CCA side was on the BOP data, on
11 that report that shows privatization costs
12 compared -- they send a -- it's become part of
13 the budget document for Congress.

14 Q. So that -- that document showed the
15 per diem rate for each CCA facility?

16 A. No, it showed the average rate for
17 all private facilities.

18 Q. So was your comparison of
19 BOP-operated prisons compared to all private
20 prisons?

21 A. It was -- it was -- it compared low
22 security BOP prisons to all low security private
23 prisons.

24 Q. So it wasn't CCA-specific?

25 A. No, sir.

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1 Q. And, again, you didn't -- you didn't
2 have any internal BOP data for that exercise,
3 right?

4 A. No, sir. When I left BOP, that data
5 stayed. The only thing I found was on public
6 websites.

7 Q. Did the public data that you found
8 have any information about the overhead costs at
9 the BOP level attributable to private prisons?

10 A. Not unless it was on that one
11 document, that one-page document. There's --
12 there's overhead on that document. I don't know
13 where -- I -- I can't recall exactly where --
14 where it shows up in that report.

15 Q. And just to be clear, when -- when
16 you -- when you refer to that document, you're
17 talking about this Monday Morning Highlights
18 report that was published on a weekly basis?

19 A. No, sir. That was just populations.

20 Q. Oh.

21 A. The -- the document was -- and I'm
22 talking about referenced low security \$69 a day
23 for BOP, privatization amount \$60, medium
24 security \$70, high security -- and I -- and I'm
25 making up numbers, but that's kind of what it

Page 165

1 looks like.

2 Q. So would -- this would have been in

3 the annual budget request from the BOP that went

4 to Congress? Is that what that is?

5 A. Which document are you talking about?

6 Q. The -- the document you were just

7 describing with the --

8 A. The --

9 Q. -- the breakdown of --

10 A. -- the -- the per diem document?

11 Q. Um-hmm (affirmative).

12 A. I believe that's part of the

13 submission. It was a public document they put

14 out. I don't -- I -- and I'm fairly certain it

15 was in the actual budget submission.

16 Q. To Congress?

17 A. To Congress.

18 Q. Have you ever been charged with a

19 crime, Mr. Dalius?

20 A. Not that I'm aware of, unless a

21 speeding ticket. Maybe -- I may have gotten a

22 speeding ticket.

23 Q. So -- so never charged with a crime

24 other than a speeding ticket to your knowledge;

25 is that right?

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1 A. That's -- to my knowledge, yes.

2 Q. Have you ever been accused of any

3 misconduct involving dishonesty?

4 A. No, sir.

5 Q. Have you ever been accused of any

6 misconduct involving fraud?

7 A. No, sir.

8 Q. Have you ever been accused of any

9 misconduct involving theft?

10 A. No, sir.

11 Q. Have you ever been accused of any

12 misconduct involving embezzlement?

13 A. No, sir.

14 Q. Have you ever been accused of breach

15 of fiduciary duty?

16 A. No, sir.

17 Q. When you were at the BOP, you were

18 accused on multiple occasions of violating the

19 United States Department of Justice standards of

20 employee conduct, right?

21 A. That's correct.

22 Q. When was the first time you were --

23 you were alleged to have violated the DOJ

24 standards of conduct?

25 A. I don't know the specific date.

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1 Q. Approximately when would it have

2 been?

3 A. 2000 -- I -- I don't know. I really

4 don't know the date.

5 Q. What position would you have been in,

6 in terms of your job at the time at the BOP?

7 A. I would have been the assistant

8 director, if I recall.

9 Q. So the first -- the first allegation

10 that you violated the DOJ standards of conduct

11 would have been when you were the assistant

12 director at the -- at -- in the administration

13 division; is that right?

14 A. That's -- that's what I recall.

15 Q. What was the first -- what were the

16 allegations the first time you were alleged to

17 have violated the DOJ --

18 A. It was --

19 Q. -- standards of conduct?

20 A. It was allegations of -- of actions

21 unbecoming a senior executive staff member.

22 Q. And what did that mean?

23 A. There was an allegation of a

24 relationship with an employee in a different state

25 in the country.

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1 Q. A relationship with an employee in a

2 different state in the country.

3 Did the -- did -- did the state that

4 people -- that the employee was in have something

5 to do with the allegation?

6 A. No. It was just an allegation that

7 it was unbecoming of a senior executive official

8 to do that.

9 Q. And what is the -- the that that you

10 were alleged to have done?

11 A. Had a relationship.

12 Q. Was there any truth to the

13 allegations against you?

14 A. It was an allegation. There was

15 partial truths. It wasn't fully as the

16 allegations occur.

17 Q. Can you briefly explain to me what

18 you mean by that?

19 MR. MCGEE: Chris, what -- what --

20 what relevance does this have? You guys

21 followed around on this in the last

22 deposition. I -- I don't understand

23 the -- the -- the relevance this has to

24 his 26 -- Rule 26 disclosure.

25 MR. LYONS: I don't know yet. I'm